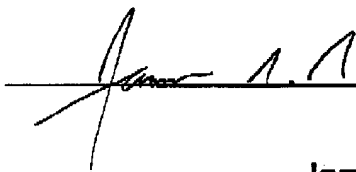


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Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on **April 2, 2008***Date**Signature***James N. Baker***Typed or printed name of person signing Certificate***40,899***Registration Number, if applicable***412-881-8450***Telephone Number**Total Pages including Certificate of Transmission* **23****Atty. Docket: 040150****Serial No.: 10/807,178**

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**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of: **AMITANI, Yoshiko, et al.**

Serial No.: **10/807,178**

Filed: **March 24, 2004**

Appeal No:

Group Art Unit: **2629**

Examiner: **LAO, Lun Yi**

P.T.O. Confirmation No.: **4182**

For: **PORTABLE WIRELESS TERMINAL**

TRANSMITTAL OF APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: April 2, 2008

1. Transmitted herewith is the Appeal Brief in this application, with respect to the
Notice of Appeal filed on February 7, 2008.

2. STATUS OF APPLICANT

This application is on behalf of other than a small entity.

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 1.17(c), the fee for filing the Appeal Brief is for other than a small
entity, the fee being \$510.00.

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4. TOTAL FEE DUE

The total fee due is:

Appeal brief fee \$ 510.00.

TOTAL FEE DUE \$ 510.00

5. FEE PAYMENT

Authorization is hereby made to charge the amount of \$510.00 to Deposit Account

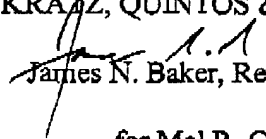
No. 01-2340.

7. FEE DEFICIENCY

If any additional extension and/or fee is required, charge:

Deposit Account No. 01-2340.

KRATZ, QUINTOS & HANSON, LLP


James N. Baker, Reg. No. 40,899

for Mel R. Quintos
Attorney for Applicant
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THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPEAL BRIEF FOR THE APPELLANTS

Ex parte Yoshiko AMITANI et al.

PORTABLE WIRELESS TERMINAL

Serial Number: 10/807,178

Filed: March 24, 2004

Group Art Unit: 2629

Examiner: Lun Yi LAO

Mel R. Quintos
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Date: April 2, 2008
Atty. Docket No. 040150

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**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of: **AMITANI, Yoshiko, et al.**

Serial No.: **10/807,178**

Filed: **March 24, 2004**

Group Art Unit: **2629**

Examiner: **LAO, Lun Yi**

P.T.O. Confirmation No.: **4182**

For: **PORTABLE WIRELESS TERMINAL**

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: April 2, 2008

Sir:

This is an appeal from the Office Action dated October 16, 2007 in which Claims 1-3 and 5 were rejected.

A Notice of Appeal was timely filed on February 7, 2008.

U.S. Patent Application Serial No. 10/807,178

This brief contains these items under the following headings, and in the order set forth below:

- I. REAL PARTY IN INTEREST
- II. RELATED APPEALS AND INTERFERENCES
- III. STATUS OF CLAIMS
- IV. STATUS OF AMENDMENTS
- V. SUMMARY OF CLAIMED SUBJECT MATTER
- VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
- VII. ARGUMENT
- VIIA. REJECTIONS UNDER 35 U.S.C. §103
- VIII. CLAIMS APPENDIX
- IX. EVIDENCE APPENDIX
- X. RELATED PROCEEDINGS APPENDIX

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U.S. Patent Application Serial No. 10/807,178

I. REAL PARTY IN INTEREST

The real parties in interest are the assignees of the subject application, which are:

SANYO ELECTRIC CO., LTD.
5-5, Keihanhondori 2-Chome
Moriguchi-shi
Osaka, Japan

and

SANYO TELECOMMUNICATIONS CO., LTD.
1-1, Sanyocho
Daito-shi
Osaka, Japan

U.S. Patent Application Serial No. 10/807,178

II. RELATED APPEALS AND INTERFERENCES

Appellants know of no other appeals or interference proceedings related to the present appeal.

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III. STATUS OF CLAIMS

Claims 1, 3 and 5 on appeal are rejected under 35 U.S.C. § 103(a).

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IV. STATUS OF AMENDMENTS

All amendments have been entered.

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V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1, on appeal, recites a portable wireless terminal (FIGS. 1 and 2) having a first case (1) having a front surface (surface with keys (11)) and a rear surface, a second case (2) having a front surface (surface with main display (50)) and a rear surface, and an interconnecting mechanism (3) for interconnecting the two cases. The interconnecting mechanism (3) has a hinge mechanism (3) for openably interconnecting the first case (1) and the second case (2). The second case (2) connects to the first case (1) by the interconnecting mechanism (3) so that the second case (2) is closable to a first posture (as shown in FIG. 2) wherein at least a part area of the front surface of the first case (1) is covered and is openable to a second posture (as shown in FIG. 1) wherein the part area is exposed. The front surface and rear surface of the second case (2) are provided with respective displays (main display (50) and sub-display (5)). The part area of the first case has a pointing device (4) projecting therefrom in a direction apart from the front surface of the first case (1) and for an input manipulation on a screen presented on the displays ((50) and (5)). The second case (2) has an opening (27) extending through the case (2) from the front surface thereof to the rear surface thereof at the position opposed to the pointing device (4) when in the first posture (as shown in FIG. 2). The opening (27) has an inner peripheral wall to surround the entire pointing device (4).

Independent Claim 5, on appeal, recites a portable wireless terminal (FIGS. 4 and 5) having a first case (1) having a front surface (surface with keys (11)) and a rear surface, a second case (2) having a front surface (surface with display (5a)) and a rear surface, and an interconnecting

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mechanism (17) for interconnecting the two cases. The interconnecting mechanism (17) has a sliding mechanism (17) for slidably interconnecting the first case (1) and the second case (2) to one another. The two cases are slidably lapped over one another with the front surface of the first case (1) opposed to the rear surface of the second case (2). The second case (2) connects to the first case (1) by the interconnecting mechanism (17) so that the second case (2) is closable to a first posture (as shown in FIG. 5) wherein at least a part area of front surface of the first case(1) is covered and is openable to a second posture (as shown in FIG. 4) wherein the part area is exposed. The front surface of the second case (2) is provided with a display (5a). The part area of the first case (1) has a pointing device (4) projecting therefrom in a direction apart from the front surface of the first case (1) and for an input manipulation on a screen presented on the display (5a). The second case (2) has an opening (28) extending through the case from the front surface thereof to the rear surface thereof at the position opposed to the pointing device (4) when in the first posture (as shown in FIG. 5). The opening (28) is formed by a notch having a U-shaped opening opposed to the pointing device (4).

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether Claims 1-3 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent 6,487,396 to Sassi in view of U.S. Patent 7,146,197 to Kang et al.
2. Whether Claim 5 is unpatentable under 35 U.S.C. § 103(a) over Kang et al. in view of Sassi.

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VII. ARGUMENT**1. CLAIMS 1-3 ON APPEAL ARE NOT OBVIOUS OVER SASSI IN VIEW OF KANG ET AL. UNDER 35 U.S.C. §103(a).**

The Examiner alleges, beginning at paragraph 2, line 13, and referring to Figs. 1 and 2, that Sassi teaches a pointing device (7a) provided in first case (2) and alleges, beginning at paragraph 2, line 14, that second case (3) has an opening extending through the case.

At paragraph 2, line 19, the Examiner, contrary to the above allegations, admits that Sassi fails to disclose a pointing device projecting from the front surface of the first case (2).

The Examiner further alleges beginning at paragraph 2, line 23, and referring to Figs. 1 and 2, that Kang et al. teaches a pointing device (310) projecting from the front surface of a first case (10).

The Examiner alleges that the combination of the references meet all the limitations in present Claims 1-3.

Regarding Sassi, Sassi does not disclose or suggest a pointing device in one case (first case) and an opening in the other case (second case), arranged such that when the cases are in the first posture (closed) the opening opposes the pointing device, with an inner peripheral wall of the opening surrounding the entire pointing device, as presently claimed. As clearly shown in Sassi (Figs. 1 and 2), the alleged pointing device (7a) is in one case and the alleged opening (3d) is in the same case. Although Sassi discloses at column 5, lines 58-62, that the alleged pointing device (7a) can be in alleged first case (2), Sassi does not disclose an opening in the other case (3). The

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disclosure reads: "It is obvious that the control means 7 can also be placed on the first housing part 2 e.g. by the keys 8a - 8d, wherein the control part 7a is arranged at openings formed on the inner surface 2a and the outer surface 2b of the first housing part 2".

Regarding Kang et al. and the allegation that Kang et al. teaches a pointing device (310) projecting from the surface of first case (10), shown in Figs. 1-3, it can not reasonably be interpreted that the cylindrical rotary housing (330), having alleged pointing device (310) corresponds to the first case of the present claims. Kang et al. beginning at column 4, lines 29-52, recites that "The cylindrical hinge housing 30 is provided at one end of the housing 10 . . .", "The cylindrical hinge housing 30 comprises a cylindrical stationary housing 320 and a cylindrical rotary housing 330 rotatably attached to the cylindrical stationary housing 320", and "The cylindrical rotary housing 330 has at least one key 310 arranged on the top surface 30a thereof . . .". In view of the above-recited teachings, it is clearly apparent that in Kang et al. pointing device (310) does not project from the surface of the first case (10), as alleged by the Examiner. Components (10) and (20) of Kang et al., which are alleged to correspond to the first case and second case, respectively, of the present claimed invention, are separate components from the cylindrical hinge housing (30). In the specification of Kang et al., hinge housing (30) is described as being a separate component of the device having a bottom half fixed to the first housing (10) and a top half rotatably connected with a hinge to the second housing (20). Hinge housing (30) is made up of stationary housing (320), as a bottom half, and a rotary housing (330), as a top half, and has hinges along hinge axes (A1) and (A2). It can not reasonably be interpreted that hinge housing (30) corresponds to the first case or the second case of the present claimed invention.

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Even if, *Arguendo*, it is said that hinge housing (30) is part of the cases (10, 20), the alleged pointing device (310) is on a top half of the hinge housing (30), that is in cylindrical rotary housing (330), which is connected to the alleged second case (20). It is not projecting from the alleged first case (10), as presently claimed.

Further, even if, *Arguendo*, it is said that hinge housing (30) is part of the cases (10, 20), the alleged pointing device (310) is not arranged on one of the cases (first case) and an opening arranged on the other of the cases (second case), such that when the cases are in the first posture (closed) the opening opposes the pointing device with an inner peripheral wall of the opening surrounding the entire pointing device, as presently claimed.

For the above reasons, it is clear that neither of the references considered individually discloses or suggests the claimed invention. Also, Sassi and Kang et al. considered in combination do not suggest the presently claimed invention.

In view of the above remarks, the 35 U.S.C. § 103(a) rejection of Claims 1-3, on appeal, should not be sustained.

2. CLAIM 5 ON APPEAL IS NOT OBVIOUS OVER KANG ET AL. IN VIEW OF SASSI UNDER 35 U.S.C. §103(a).

The Examiner alleges, beginning at paragraph 3, line 17, that Kang et al. teaches a pointing device (30 or 630) projecting from the front surface of the first case (10 or 600), and the second case (20 or 610) having an opening extending through the case, as shown in Figs. 1-3 and 6-7. It is further alleged, beginning at paragraph 3, line 6, that cases (10, 20 or 600, 610) are interconnected

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with a sliding mechanism (reference number not specified) and that the second case (20 or 610) has an opening extending through the case, which is formed by a notch having a U-shaped opening (reference number not specified) opposed to the pointing device (30 or 630) when in a first posture (closed).

The Examiner further alleges, beginning at paragraph 3, line 25, that Sassi et al. teaches a pointing device (7a) on a second case (3), as shown in Fig. 1.

The Examiner alleges that the combination of the references meet all the limitations in present Claim 5.

Regarding Kang et al., the alleged "pointing device" (30 or 630) is not projecting from alleged first case (10 or 600). The portion of the device of Kang et al. having alleged pointing device (30 or 630) can not reasonably be considered to be a "case", as presently defined in Claim 5. Kang et al. teaches that "hinge housing" (30) is a separate component of the device, and a half of hinge housing (30) is fixed to the first housing (10) and a half of hinge housing (30) is rotatably connected with a hinge to the second housing (20). Hinge housing (30) is made up of a stationary housing (320) and a rotary housing (330). The hinge housing (30) has hinges along hinge axes (A1) and (A2). Hinge housing (30) can not reasonably be considered to correspond to the claimed first case of present claim 5.

Even if, *Arguendo*, it is said that hinge housing (30) is part of the cases, the alleged pointing device (30 or 630) is on the half of the hinge housing (30) which is connected rotatably to alleged second case (20), not to the alleged first case (10), as claimed in present Claim 5. In Kang et al. the alleged pointing device (30 or 630) and alleged opening (reference number not specified) are on the

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same case, as opposed to the presently claimed arrangement wherein the pointing device is on one case and the opening is on the other case.

Further, at column 1, lines 41-55 of Kang et al., in describing related art, a “rotating-type” wireless terminal and a “sliding-type” wireless terminal are described. The invention of Kang et al. is said to be a different arrangement from the rotating-type and sliding-type. Therefore, the device taught by Kang et al. is not of the known sliding type, as presently claimed. Present Claim 5 recites “the interconnecting mechanism comprising a sliding mechanism for slideably interconnecting . . .”. The Examiner is mischaracterizing the device of Kang et al. in alleging that the rotating hinge housing type taught by Kang et al. is of the presently claimed sliding type.

For the above reasons, it is clear that neither of the references considered individually discloses or suggests the claimed invention. Also, Sassi and Kang et al. considered in combination do not suggest the presently claimed invention.

In view of the above remarks, the 35 U.S.C. § 103(a) rejection of Claim 5, on appeal, should not be sustained.

For the above reasons, The Board of Patent Appeals and Interferences is respectfully requested to reverse all of the Examiner’s rejections of Claims 1-3 and 5 on appeal under 35 U.S.C. § 103(a), and pass this application to issue.

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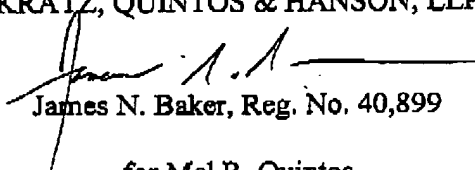
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In the event this paper is not timely filed, Appellants hereby petitions for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 01-2340, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP


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for Mel R. Quintos
Attorney for Applicant
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Enclosures: Claims Appendix
Evidence Appendix
Related Proceedings Appendix

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VIII. CLAIMS APPENDIX

1. A portable wireless terminal comprising a first case having a front surface and a rear surface, a second case having a front surface and a rear surface, and an interconnecting mechanism for interconnecting the two cases, the interconnecting mechanism comprising a hinge mechanism for openably interconnecting the first case and the second case, the second case connecting to the first case by the interconnecting mechanism so that the second case is closable to a first posture wherein at least a part area of front surface of the first case is covered and is openable to a second posture wherein the part area is exposed, the front surface and rear surface of the second case being provided with respective displays, the part area of the first case having a pointing device projecting therefrom in a direction apart from the front surface of the first case and for an input manipulation on a screen presented on the displays, the second case having an opening extending through the case from the front surface thereof to the rear surface thereof at the position opposed to the pointing device when in the first posture, the opening having an inner peripheral wall to surround the entire pointing device.

2. A portable wireless terminal according to claim 1 wherein the pointing device is in the form of a bar, and is movable so as to tilt upwardly, downwardly, rightwardly or leftwardly with its base end serving as a fulcrum.

3. A portable wireless terminal according to claim 1 wherein the front surface of the second

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case is opposed to the front surface of the first case in the first posture; in the meantime, the front surface of the second case is apart from the front surface of the first case in the second posture, the pointing device functions for a screen presented on the display disposed on the rear surface of the second case in the first posture; in the meantime, the pointing device functions for a screen presented on the display disposed on the front surface of the second case in the second posture.

5. A portable wireless terminal comprising a first case having a front surface and a rear surface, a second case having a front surface and a rear surface, and an interconnecting mechanism for interconnecting the two cases, wherein the interconnecting mechanism comprises a sliding mechanism for slidably interconnecting the first case and the second case to one another, the two cases are slidably lapped over one another with the front surface of the first case opposed to the rear surface of the second case, the second case connects to the first case by the interconnecting mechanism so that the second case is closable to a first posture wherein at least a part area of front surface of the first case is covered and is openable to a second posture wherein the part area is exposed, the front surface of the second case is provided with a display, the part area of the first case has a pointing device projecting therefrom in a direction apart from the front surface of the first case and for an input manipulation on a screen presented on the display, the second case has an opening extending through the case from the front surface thereof to the rear surface thereof at the position opposed to the pointing device when in the first posture, and the opening is formed by a notch having a U-shaped opening opposed to the pointing device.

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IX. EVIDENCE APPENDIX

None.

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X. RELATED PROCEEDINGS APPENDIX

None.